

Law Offices of  
**ANDRE A. ROUVIERE**  
Merrick Park Law Center  
4070 Laguna Street  
Coral Gables, Florida 33146  
e-mail: [Andre@Rouvierelawfirm.com](mailto:Andre@Rouvierelawfirm.com)

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André A. Rouviere  
Lissette B. Cruz

Telephone (305) 774-7000  
Fax (305) 946-6121

November 20, 2020

VIA ECF  
Honorable Stewart D. Aaron, U.S.M.J.  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312

Plaintiffs' request for permission to file a sur-reply is DENIED. However, the Court shall hold a telephonic oral argument on Tuesday, 11/24/2020, at 3 p.m. EST. At the scheduled time, the parties shall each separately call (888) 278-0296 (or (214) 765-0479) and enter access code 6489745. SO ORDERED.

Dated: 11/21/2020

**Re: Rouviere v. DePuy Orthopaedics, et al.**  
Civil Action No. 1:18-cv-4814 (AJN)



Dear Judge Aaron:

On behalf of the Plaintiffs, I respectfully request permission to file a Sur-Reply of no more than 3 pages to the Defendant DePuy Orthopaedics (“DePuy”)’s Reply submission (ECF# 222) of November 20, 2020.<sup>1</sup> The Sur-Reply is requested because Defendant DePuy continues to make new factual and legal arguments, and it appears this Court is not holding oral argument on Defendant DePuy’s motion to strike. Should the Court intend to consider Defendant DePuy’s arguments, Plaintiffs respectfully request the opportunity to respond, including with respect to Defendant DePuy’s factual allegations concerning Depuy’s claim there was no good cause to “justify untimely expert disclosures regarding DePuy’s components,” and the “Disqualified Expert was not currently engaged by DePuy as the last case on the prior testimony list concluded in 2014.

Sincerely,

//s// Andre Rouviere  
Andre Rouviere

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<sup>1</sup> “The standard for granting a leave to file a surreply is whether the party making the motion would be unable to contest matters presented to the court for the first time in the opposing party's reply.” *Lewis v. Rumsfeld*, 154 F. Supp. 2d 56, 61 (D.D.C. 2001). Plaintiffs satisfy this standard because the Defendant DePuy’ reply presents several matters for the first time, and Plaintiffs have not been able to contest these matters, as detailed below. “[D]istrict court[s] routinely grant[] such motions” when this standard is satisfied. *Ben-Kotel v. Howard Univ.*, 319 F.3d 532, 536 (D.C. Cir. 2003).